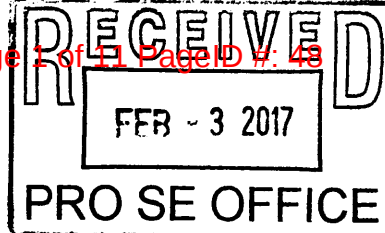


ORIGINAL

16-cv-1121

16mc 2014
(BMC)**COMMON LAW NOTICE****CLAIM OF LIEN OBLIGATION & AFFIDAVIT OF TRUTH AND FACT**

UCC Tracking AICS20161213F – This is a security

STATE of New York**COUNTY of Kings****Affiant/Demandant/Lienor: Eric Hawkes Richmond**A Sovereign, American citizen
on the land at common law.**Respondent/Lienee: Brian Mark Cogan****STATE OF NEW YORK****COUNTY OF KINGS ss.:**

16-cv-422
16-cv-424
16-cv-564
16-cv-565
16-cv-3256
16-cv-1121
16-cv-3648
16-cv-3755
16-MC-2014
16-cv-3628
16-cv-2979
16-cv-3149

14-cv-5987
14-cv-7112
15-cv-447
15-cv-4628
15-cv-4824
15-cv-4825
15-cv-4826
15-cv-4980
15-cv-5201
15-cv-6621
15-cv-7177

AFFIDAVIT OF TRUTH & FACT

Notice is hereby given that failure or refusal to contest this AFFIDAVIT OF TRUTH & FACT within thirty (30) days on a point-for-point basis shall be construed as constructive silence and concealment of incriminating evidence and shall create the legal presumption that the un-addressed below listed points are settled facts. A failure to contest the facts below with a sworn affidavit of truth addressing each and every point in AFFIDAVIT OF TRUTH & FACT means you agree with the un-addressed facts and points as set forth and with the obligations described.

IMPORTANT NOTICE

Receipt of this AFFIDAVIT OF TRUTH & FACT requires a response as stipulated above. Acquiescence will be your answer to all below statements if you fail or refuse to provide a written response in the form of a rebuttal sworn Affidavit under penalty of perjury. Mere denial of the facts below is not enough to rebut the points and facts outlined below. Documentary evidence and sworn testimony are required to rebut each and every point denied.

All men and women know that the foundation of law and commerce exists in the telling of the truth, the whole truth, and nothing but the truth.

All corporate government is based upon Commercial Affidavits, Commercial Contracts, Commercial Liens and Commercial Distresses, hence, governments cannot exercise the power to expunge commercial processes.

Notice to agent is notice to principal and notice to principal is notice to agent.

Acquiescence means "A person's tacit or passive acceptance; implied consent to an act."

Review **Morris vs. NCR, 44 SW2d 433** which states: "An Affidavit if not contested in a timely manner is considered undisputed facts as a matter of law."

Also, review **U.S. vs. Pruden, 424 F.2d 1021 (1970)** which states: "Silence can only be equated with fraud where there is a legal or moral duty to speak or where an inquiry left unanswered would be intentionally misleading..."

MAXIMS OF COMMERCIAL LAW

1. A WORKMAN IS WORTHY OF HIS HIRE. Legal maxim: "It is against equity for freemen not to have the free disposal of their own property."
2. ALL ARE EQUAL UNDER THE LAW. "Equality before the law". "No one is above the law". This is founded on both Natural and Moral law and is binding on everyone. For someone to say, or act as though, he is "above the law" is insane. This is the major insanity in the world today. Man continues to live, act, believe, and form systems, organizations, governments, laws and processes which presume to be able to supercede or abrogate Natural or Moral Law. But, under commercial law, Natural and Moral Law are binding on everyone, and no one can escape it. Commerce, by the law of nations, ought to be common, and not to be converted into a monopoly and the private gain of the few.
3. IN COMMERCE, TRUTH IS SOVEREIGN This one is one of the most comforting maxims one could have, your foundation for your peace-of-mind and your security and your capacity to win and triumph -- to get your remedy -- in this business. Truth is sovereign -- and the Sovereign tells only the truth. *Your word is your bond*. If truth were not sovereign in commerce, i.e., all human action and inter-relations, there would be no basis for anything. No basis for law and order,

no basis no accountability, there would be no standards, no capacity to resolve anything. It would mean "anything goes", "each man for himself", and "nothing matters". That's worse than the law of the jungle. Commerce. "To lie is to go against the mind". Oriental proverb: "Of all that is good, sublimity is supreme."

4. TRUTH IS EXPRESSED IN THE FORM OF AN AFFIDAVIT. An affidavit is your solemn expression of your truth. In commerce, an affidavit must be accompanied and must underlay and form the foundation for any commercial transaction whatsoever. There can be no valid commercial transaction without someone putting their neck on the line and stating, "this is true, correct, complete and not meant to mislead." An affidavit is a two edged sword; it cuts both ways. Someone has to take responsibility for saying that it is a real situation. It can be called a true bill, as they say in the Grand Jury. When you issue an affidavit in commerce you get the power of an affidavit. You also incur the liability, because this has to be a situation where other people might be adversely affected by it. Things change by your affidavit, which are going to affect people's lives. If what you say in your affidavit is, in fact, not true, then those who are adversely affected can come back at you with justifiable recourse because you lied. You have told a lie as if it were the truth. People depend on your affidavit and then they have lost because you lied.

5. AN UNREBUTTED AFFIDAVIT STANDS AS TRUTH IN COMMERCE. Claims made in your affidavit, if not rebutted, emerge as the truth of the matter. Legal Maxim: "He who does not deny, admits."

6. AN UNREBUTTED AFFIDAVIT BECOMES THE JUDGMENT IN COMMERCE. There is nothing left to resolve. Any proceeding in a court, tribunal, or arbitration forum consists of a contest, or duel, of commercial affidavits wherein the points remaining unrebutted in the end stand as truth and matters to which the judgment of the law is applied.

7. IN COMMERCE FOR ANY MATTER TO BE RESOLVED, IT MUST BE EXPRESSED.

No one is a mind reader. You have to put your position out there, you have to state what the issue is, to have someone to talk about and resolve. Legal Maxim: "He who fails to assert his rights has none.

8. HE WHO LEAVES THE BATTLEFIELD FIRST LOSES BY DEFAULT. This means that an affidavit which is unrebutted point for point stands as "truth in commerce" because it hasn't been rebutted and has left the battlefield. Governments allegedly exists to resolve disputes, conflicts and truth. Governments allegedly exist to be substitutes for the dueling field and the battlefield for such disputes, conflicts of affidavits of truth are resolved peaceably and reasonably instead of by violence. So people can take their disputes into court and have them all opened up and resolved, instead of going out and marching ten paces and turning to kill or injure. Legal Maxim: "He who does not repel a wrong when he can, occasions it".

9. SACRIFICE IS THE MEASURE OF CREDIBILITY. Nothing ventured nothing gained. A person must put himself on the line, assume a position, take a stand, as regards the matter at hand. One cannot realize the potential gain without also exposing himself to the potential of loss for the truth of his statements and legitimacy of his actions has no basis to assert claims or charges and forfeits all credibility and right. Legal Maxim: "He who bears the burden ought also to derive the benefit".

10. A LIEN OR CLAIM CAN BE SATISFIED ONLY THROUGH REBUTTABLE BY AFFIDAVIT POINT BY POINT, RESOLUTION BY JURY, OR PAYMENT. In commerce a lien or claim can be satisfied in any one of three ways:

(A) By someone rebutting your affidavit, with another affidavit of his own, point by point, until the matter is resolved as to whose is correct, in case of non-resolution.

(B) You convene a Sheriff's common law jury, based on the Seventh Amendment, concerning a dispute involving a claim of more than \$20. Or, you can use three

disinterested parties to make judgment.

(C) Agreement.

(D) The only other way to satisfy a lien is to pay it.

Legal Maxim: "if the plaintiff does not prove his case, the defendant is absolved".

Eric Hawkes Richmond being duly sworn deposes and says:

1. I have full knowledge of all facts and statements set forth below.
2. I am a man, free born and of lawful age.
3. I swear the facts below to be true under penalty of perjury.
4. Brian Mark Cogan is an attorney licensed in New York State.
5. Brian Mark Cogan is bound by his Attorney's Oath of Office as found in § 1 of Article XIII of the New York State Constitution, as follows:

I do solemnly swear (or affirm) that I will support the constitution of the United States, and the constitution of the State of New York, and that I will faithfully discharge the duties of the office of [attorney and counselor-at-law], according to the best of my ability.

6. Brian Mark Cogan is an Article III Judge in the Eastern District of New York.
7. Brian Mark Cogan is bound by Judge's Oath

28 U.S. Code § 453 - Oaths of justices and judges

Each justice or judge of the United States shall take the following oath or affirmation before performing the duties of his office: "I, __ __, do solemnly swear (or affirm) that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as __ under the Constitution and laws of the United States. So help me God."

8. On May 5, 2016, 2016, affiant filed a motion for , among other things, a required hearing for Judicial Notice of indisputable facts pursuant to Federal Rule of Evidence 201 (EXHIBIT A).

Rule 201. Judicial Notice of Adjudicative Facts

(a) Scope. This rule governs judicial notice of an adjudicative fact only, not a legislative fact.

(b) Kinds of Facts That May Be Judicially Noticed. The court may judicially notice a fact that is not subject to reasonable dispute because it:

- (1) is generally known within the trial court's territorial jurisdiction; or
- (2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.

(c) Taking Notice. The court:

- (1) may take judicial notice on its own; or
- (2) must take judicial notice if a party requests it and the court is supplied with the necessary information.

(d) Timing. The court may take judicial notice at any stage of the proceeding.

(e) Opportunity to Be Heard. On timely request, a party is entitled to be heard on the propriety of taking judicial notice and the nature of the fact to be noticed. If the court takes judicial notice before notifying a party, the party, on request, is still entitled to be heard.

(f) Instructing the Jury. In a civil case, the court must instruct the jury to accept the noticed fact as conclusive. In a criminal case, the court must instruct the jury that it may or may not accept the noticed fact as conclusive.

9. Brian Mark Cogan failed to hold the required hearing.

10. The failure to grant the hearing was a violation of the Federal Rule of Evidence 201.

11. The failure to grant the hearing was a violation of due process.

12. The failure to grant the hearing was a violation of his Attorney's Oath of Office.

13. The failure to grant the hearing was a violation of his Judge's Oath.

15. For that Affiant is damaged in the amount of \$25,000,000.

Brian Mark Cogan has 30 days from the date of service of this document on her agent(s) to either compensate Eric Hawkes Richmond in full (\$25,000,000) or provide sworn affidavit and evidence which rebuts the above statements of fact.

Eric Hawkes Richmond, the Affiant, does hereby confirm and affirm that all facts stated herein are true, correct, complete to the best of my knowledge, not misleading, admissible as evidence, and are signed under the penalty of perjury.

Date: 12/13/2016

BY:


Eric Hawkes Richmond
2107 Regent Place
Brooklyn, NY 11226
gowanusx@gmail.com
(646) 256-9613

Sworn to before me
this 13th day of December, 2016



KAMAL P. SONI
Notary Public, State of New York
No. 01SO6089949
Qualified in Kings County
Commission Expires March 31, 2019



2/3/2017

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

In 231 Fourth Avenue Lyceum, LLC, Debtor. - 13-42125 (cec)

Eric H. Richmond, Appellant,

v.

No. 1:16-cv-1121 (CBA),

P.B. # 7, *et al.*, Appellees.

ON APPEAL FROM THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF NEW YORK

**MOTION FOR OPEN PUBLIC HEARING TO TAKE JUDICIAL NOTICE OF
INCONTROVERTIBLE FACTS,
MOTION FOR A DIFFERENT JUDGE TO RULE ON PRO HAC VICE**

ERIC H. RICHMOND
APPELLANT / MOVANT, PRO SE

TO: THE HONORABLE BRIAN MARK COGAN, US DISTRICT JUDGE

Movant in Case No. 1:16-cv-1121 (BMC), Eric H. Richmond, hereby respectfully files this motion for a public hearing on judicial notice of incontestable facts and for a different judge to rule on *pro hac vice* applications.

FACTS

1. Movant, Eric Richmond is a party in interest / interested party.
2. The appeal sounds in, as taken from the Civil Cover Sheet:

The Bankruptcy Court failed to address movant's argument that, as a party in interest, movant has the right to vacate a void decision.

Motion makes no claim to be representing 231 Fourth Avenue Lyceum, LLC, just as someone subject to the outcome of the lifting of the automatic stay, that movant has right to make motion.

This appeal is about whether a party in interest can make a motion to vacate an allegedly void decision and other void acts. This failure to address movant's rights as a party in interest in the motion compels the Movant to appeal to get any redress before the courts.

EXHIBIT A

**MOTION FOR OPEN PUBLIC HEARING TO TAKE JUDICIAL NOTICE OF
INCONTROVERTIBLE FACTS**

Federal Rules of Evidence › ARTICLE II. JUDICIAL NOTICE

Rule 201. Judicial Notice of Adjudicative Facts

(a) Scope. This rule governs judicial notice of an adjudicative fact only, not a legislative fact.

(b) Kinds of Facts That May Be Judicially Noticed. The court may judicially notice a fact that is not subject to reasonable dispute because it:

(1) is generally known within the trial court's territorial jurisdiction; or

(2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.

(c) Taking Notice. The court:

(1) may take judicial notice on its own; or

(2) must take judicial notice if a party requests it and the court is supplied with the necessary information.

(d) Timing. The court may take judicial notice at any stage of the proceeding.

(e) Opportunity to Be Heard. On timely request, a party is entitled to be heard on the propriety of taking judicial notice and the nature of the fact to be noticed. If the court takes judicial notice before notifying a party, the party, on request, is still entitled to be heard.

3. Debtor moves this court for an open public hearing for judicial notice of the following incontrovertible facts:

- Movant is an interested party / party in interest.
- Judge Brian M. Cogan is assigned to other cases involving Movant.
- This court has, in violation of Federal Rules of Evidence Rule 201, repeatedly denied

Movant's MOTIONS FOR OPEN PUBLIC HEARING TO TAKE JUDICIAL NOTICE OF
INCONTROVERTIBLE FACTS.

- Judge Brian Cogan has repeatedly denied movant's motions for an alternate judge to review pro hac vice applications.
- Hearings on judicial notice of incontrovertible facts is not optional for the court.

MOTION FOR NEW JUDGE TO REVIEW PRO HAC VICE

4. The issues at stake are simple and sometimes procedural. But, to date, this court has repeatedly not addressed the simple issues regarding the alleged facts, mistakes, rules or due process in cases this court has deemed related.

5. Such avoidance of facts and of issues by the court and failure of the court to follow due process sounds in barratry by the court.

6. It is clear that the court does not dispense due process as of right to litigants, but must be backed into due process. Movant is seeking counsel up to the task.

7. This court has denied Brian King *pro hac vice* and sought out sanctions against him for alleged lack of knowledge of Federal Rules of Civil Procedure and alleged lack of knowledge of local rules.

8. Mr. King defended himself with an epic teardown of a judge who had attacked him and defamed him. ([scribd.com/doc/221728712](https://www.scribd.com/doc/221728712)) -Brian King's response to Judge Cogan Allegations. The ending is a warning to all that appear in his court, you will be abused.

"Nonetheless, by that time, I had observed him for several days in a row and there was no question that he was miffed. But, in witnessing the fervor of his denial about the eye rolling, I made one more crucial observation about him that I had not noticed before. The observation was that before that moment, he had yet to realize that he was his own biggest problem. To clarify, when he rolled his eyes, it was the first time he seemed to grasp the burden he had created for himself by trying to bring about a preferred outcome, rather than the required outcome. I felt sorry for him, and I figured that – after denigrating the plaintiffs, the Constitution, the law, the appellate courts, the federal rules, the lawyers, the witnesses, the jurors, and himself, wasting everyone's time in an egoistic game – he rolled his eyes upon discovery that he had been totally ineffective in bringing about the specific outcome he preferred in the litigation, despite his fiercely impelling inclination to do so. Not only had he failed to succeed in attaining that outcome, but he had lost all footing whatsoever, falling headlong, nay tumbling into the chthonic depths from which he drew his inspiration. He falls presently – from greater heights still than Icarus, Phaethon, or even the brightest angel, who plunged as all favorites must. Article III could not have contemplated a more abysmal descent, although Yates predicted it. Indeed, if Judge Cogan had simply applied the laws and

rules of the Constitution with the slightest tincture of good faith, I would not be finishing up a 30-page exposition detailing misconduct that would subject any other federal judge to impeachment by the U.S. Congress, if not indictment by the U.S. Department of Justice."

9. It is illustrates the lengths this court went to deny *pro hac vice* to an attorney that had just won a \$300,000,000 judgment despite the improper interferences of this court.

10. With such a track record, it is easy to see what is happening illegally in his court.

11. This court has violated both due process and its local rules in the instant cases.

12. This court has refused to take necessary steps to correct the violations.

13. Movant demands a judge not tainted by such malfeasance.

14. As Judges Carol Bagley Amon, William Kuntz, Ann Marie Donnelly, Allyne Ross and Scanlon have violated due process and local rules, Movant demands that they not be the judge to review *pro hac vice* applications.

INEVITABLE SANCTIONS

15. As this court has recently threatened Movant with sanctions for having the temerity to point out errors by this court that this court has refused to address and Movant has pointed out even more errors by this court and due process is worth fighting for, Movant / Appellant knows "Well, that's a a-- whippin I gotta take¹."

WHEREFORE: As Movant has Moved the court for an open public hearing for judicial notice of indisputable facts and also Moved the court to have an untainted judge evaluate *pro hac vice* applications, Movant demands that the court hold an open public hearing to take judicial notice of indisputable facts and appoint an impartial and untainted judge to review *pro hac vice* applications.

Sworn to this date: Brooklyn, NY -May 4, 2016

By: 
Eric Richmond
Appellant/Movant, pro se

CC: Glenn Warmuth, Michael Macco, David Blum,
William Curtin, Judge Carol Bagley Amon, Judge William Kuntz,
Judge Ann Marie Donnelly, Judge Allyne Ross, Judge Scanlon,
Judge Dora Lizette Irizarry

¹ WANTED:Richard Pryor